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CONSTITUTION OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

ORIGINAL
COMPLETED

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONSTITUTION OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION (UNIDO), ADOPTED BY THE UNITED NATIONS CONFERENCE ON THE ESTABLISHMENT OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION AS A SPECIALIZED AGENCY ON APRIL 8, 1979, AND SIGNED ON BEHALF OF THE UNITED STATES OF AMERICA ON JANUARY 17, 1980

OCTOBER 5, 1981.—Treaty was read the first time and, together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PRINTING OFFICE
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LETTER OF TRANSMITTAL

THE WHITE HOUSE, *October 5, 1981.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith a copy of the Constitution of the United Nations Industrial Development Organization (UNIDO). This Constitution was adopted by the United Nations Conference on the Establishment of the United Nations Industrial Development Organization as a Specialized Agency on April 8, 1979, and signed on behalf of the United States of America on January 17, 1980. The report of the Department of State with respect to the Constitution is also transmitted for the information of the Senate.

The Constitution would establish UNIDO as an independent specialized agency of the United Nations system. It does not create a new entity, but rather revises UNIDO's existing legal framework in a way that significantly improves the position of the United States and other major donors in budget, program and assessment determinations.

UNIDO's principal purpose is to foster the industrialization of developing countries. It is currently the third largest executing agency for the United Nations Development Program. UNIDO's wide-ranging activities are geared to aid developing countries in establishing the technical and institutional skills necessary for industrialization. Many of these activities are consonant with United States development priorities, including development of indigenous entrepreneurial and productive capabilities in the private sector. United States commercial and academic interests also benefit from UNIDO activity.

In recent years, there has been growing recognition of the need to formulate more effective institutions within the United Nations system to deal with the problems of development in an increasingly interdependent world. Such institutions need to serve the interests of all member nations and to be governed in a manner that realistically reflects the political and economic situation in the world today.

The Constitution would give UNIDO a new governing machinery that will make it more responsive to its member governments and that will give greater recognition to the special role of major donors, including the United States, other industrial democracies, and the Soviet bloc. If they act together, the major donors will be able to block decisions on UNIDO's program and budgets. In this respect, the Constitution is a precedent-setting document.

The Constitution would also provide a specific right of withdrawal from UNIDO if the United States should ever determine that its interests are not served by continued membership. This could not be

accomplished under UNIDO's current statute without withdrawal from the United Nations.

While the Constitution refers to the objectives of helping establish a new international economic order, the United States has made clear its view that this does not refer to any preconceived notion of such an order as outlined in some UN resolutions to which the United States has taken exception.

The Constitution offers the United States important advantages over UNIDO's current status. It provides an opportunity to increase UNIDO's effectiveness in promoting economic development in the developing countries and, thus, its contribution to a more equitable and peaceful international environment. In addition to helping create a better institutional framework, ratification of the Constitution by the United States will be a strong reaffirmation of our commitment to the industrial development of the less developed countries and demonstrate our political will to pursue beneficial relations with these countries.

I recommend that the Senate give prompt consideration to the Constitution and advise and consent to its ratification.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, September 12, 1981.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Constitution of the United Nations Industrial Development Organization (UNIDO), adopted by the United Nations Conference on the Establishment of the United Nations Industrial Development Organization as a Specialized Agency on April 8, 1979, and signed on behalf of the United States of America on January 17, 1980.

The Constitution would establish UNIDO as an independent specialized agency of the United Nations system. UNIDO now exists as an organization formally within the United Nations itself, reporting to the General Assembly.

UNIDO has a mandate to provide developing countries with industrial-related technical assistance (worth $76 million in 1980), including programs in industrial planning, institutional infrastructure, factory establishment and management, training, feasibility studies, and investment promotion. Virtually all of UNIDO's technical assistance expenditures are funded by voluntary sources, primarily the United Nations Development Program. UNIDO activities funded by the United Nations regular assessed budget ($47 million in 1980) are largely in support of its technical assistance activities, and include: macro-economic studies of factors affecting industrialization; advice to LDC governments on development policies; industrial sector, regional, country and case studies; statistical data collection and analysis; expert group meetings including sectoral Consultations; information processing and investment promotion. UNIDO's highly diversified activities include many which are congenial to United States development priorities such as: employment generation, private sector development, basic human needs, appropriate technology, and rural and agricultural related development. American commercial and academic interests also benefit from UNIDO activity.

UNIDO was established as an organ of the United Nations General Assembly pursuant to United Nations General Assembly Resolutions 2089 (XX) and 2152 (XXI), adopted in 1965 and 1966, respectively. In 1975, the United Nations General Assembly, endorsing the recommendation of the Second General Conference of UNIDO, adopted Resolution 3362 (S–VII) which established an intergovernmental committee of the whole followed by a conference of plenipotentiaries to draft and consider a constitution to transform UNIDO into a specialized agency of the United Nations. The intergovernmental committee of the whole met five times over a two-year period and was succeeded by the Conference on the Establishment of UNIDO as a Specialized Agency.

The Constitution, while not creating a new entity, revises UNIDO's existing legal framework, significantly improving the provisions relating to control of budget and programming. Under the current regime, UNIDO's work program is decided upon by its governing body, the Industrial Development Board, while its program budget is set by the United Nations General Assembly as one component of the overall United Nations Program Budget. Thus, UNIDO's budget is currently not subject to intergovernmental review by a body directly responsible for UNIDO activities; nor do the present institutional arrangements, by which all questions are decided by majority vote, adequately reflect the special interest of major donors.

The Constitution seeks to correct these defects by providing that the program and budget of UNIDO shall both be acted upon by three governing bodies in succession: the Program and Budget Committee (the Committee), the Industrial Development Board (the Board), and the General Conference (the Conference). Each body must decide on the program and budget by a two-thirds majority vote. In the Committee and the Board, the industrial democracies and the Soviet bloc (i.e., the major donors) hold substantially more than a third of the vote and thus could, if most of them agree, block adoption of a program or budget. (The Soviets have traditionally taken a very conservative position on budgetary issues.) The Constitution thereby establishes for the first time in the United Nations system, outside of the banking institutions, a special recognition of the essential role of major donor states in United Nations affairs. The Constitution is therefore a precedent setting document, responsive to the political realities of the 1980's and beyond.

The Constitution and the related resolutions on transition to specialized agency status also achieve another objective of the United States in that they do not mandate any increase in United States contributions to UNIDO, but only change the method of assessment and payment in ways beneficial to the United States. Currently, United States assessed contributions to UNIDO are determined and paid indirectly through the mechanism of the United Nations assessed budget, making it difficult for the United States to achieve a degree of influence within UNIDO concomitant with the level of those indirect contributions. The Constitution will move toward correcting this situation by instituting direct assessed budget payments to UNIDO and providing for assessments to be determined in a manner similar to the determination of the program and budget, with major donor States holding more than a third of the vote in the Board which must decide on assessments by a two-thirds majority.

It is also noteworthy that United Nations General Assembly Resolution 96 (XXXIV) on Transitional Arrangements on the Establishment of the United Nations Industrial Development Organization as a Specialized Agency provides for the termination of United Nations funding for UNIDO from the United Nations regular program budget and a corresponding reduction in this budget upon establishment of UNIDO as a specialized agency.

The Constitution consists of a preamble, twenty-nine articles (in six chapters) and three annexes. The Preamble states that the States Parties, while bearing in mind the "broad objectives" of resolutions

adopted by the sixth and seventh special sessions of the United Nations General Assembly and the Second General Conference of UNIDO pertaining to the establishment of a new international economic order, make certain declarations regarding economic development. The declarations include the necessity of establishing a just and equitable economic and social order; the essential role of industrialization to rapid economic and social development; the right of all countries to pursue industrialization; the necessity of concerted measures to promote the development, transfer and adaptation of technology internationally; and a determination to promote the common welfare through expanding international economic cooperation. The Preamble is basically hortatory, and contains no operational links to the rest of the Constitution.

The objectives and functions of UNIDO are contained in Chapter I. Article 1 states that the primary objective of UNIDO will be the promotion and acceleration of industrial development in the developing countries with a view to assisting in the establishment of a new international economic order. The language used in the Constitution, as indicated in the statement of the United States at the time of adoption of the Constitution, can be interpreted to make clear that Article 1 refers to UNIDO's participation in an evolutionary and truly consensual process to achieve a new international economic order and that Article 1 does not refer to any preconceived notion of a new international economic order as outlined in certain resolutions of the United Nations General Assembly sixth and seventh special sessions, regarding which the United States has reservations.

Article 2 lists the functions of UNIDO, all related to promoting industrial development and basically similar to the functions specified in UNIDO's current statute, General Assembly resolution 2152 (XXI). The more important functions include: coordinating United Nations industrial development activities; providing technical assistance for industrialization, including training and pilot facilities; managing an industrial information clearinghouse; advising and assisting developing countries in formulating and executing development plans; assisting in the establishment and operation of industries, to achieve full utilization of local human and natural resources; and as requested by the countries concerned, providing a forum for contacts and negotiations.

Chapter II provides for participation in UNIDO. Membership is open to all States members of the United Nations or a specialized agency. Article 6 provides for withdrawal from membership, not possible now without withdrawing from the United Nations, subject to providing a reasonable period of notice. The right of withdrawing from UNIDO alone may provide useful leverage, although actual withdrawal would entail a difficult decision.

Chapter III establishes the organs of UNIDO. Article 8 specifies a General Conference composed of all members which will act upon the reports of the Board and the Director-General and determine the guiding principles and policies of the organization. Article 9 provides for the Board to be composed of 53 members elected by the Conference, with the following distribution of seats: 33 members elected from the G–77 (developing countries), 15 members elected from Group B (industrialized democracies) and 5 members elected from Group D (the

Soviet bloc). Article 10 establishes a Programme and Budget Committee to consist of 27 members elected by the Conference with the following distribution: 15 from the G–77, 9 from Group B, and 3 from Group D.

Chapter IV delineates the process for approval of the program of work and the regular budget (i.e., the budget expenditures to be met from assessed contributions) and the operational budget (i.e., budget expenditures to be met from voluntary contributions). Article 14 stipulates that the Director-General shall prepare and submit a draft work program, regular budget and operational budget to the Board through the Committee. The Committee will consider the Director-General's proposals and make recommendations to the Board by a two-thirds majority vote of those present and voting. The Board will examine the Director General's proposals and the recommendation of the Committee and adopt the program of work, regular budget and operational budget, for submission to the Conference, by a two-thirds majority of those present and voting. The Conference will approve the submission of the Board by a two-thirds majority vote of those present and voting. The Conference may make no decision or amendment involving expenditures unless the Committee and the Board have had an opportunity to act as indicated above. By commanding more than a third of the votes in the Board and the Committee, the major donor States (i.e., Groups B and D), which share a common desire to keep United Nations agency budgets to a reasonable level, will be able to block work programs and budgets of which they disapprove, if they act together.

Article 15 provides that the scale of assessments for members shall be established by the Conference by a two-thirds majority of the members present and voting, upon a recommendation of the Board adopted by a two-thirds majority of the members present and voting. The Board's recommendation is to be based on a draft prepared by the Committee. The Constitution thereby provides a mechanism for the major donors as a group to veto a scale of assessments which they disapprove. Article 15 also stipulates that the scale of assessments shall be based to the extent possible on the scale most recently employed by the United Nations and no member shall be assessed more than 25 percent of the regular budget.

Chapter VI covers legal matters. Article 23 provides for amendments, with special, stringent provisions for amendments to financial articles. Financial amendments must be approved by two-thirds majorities of the Board and Conference respectively and must be ratified by three-fourths of the Member States. This provision protects the blocking more than a third of the votes which major donors command in the Committee and Board.

Article 25 stipulates that the Constitution shall enter into force when at least eighty States that deposited instruments of ratification notify the Secretary General of the United Nations that they have agreed, after consultations among themselves, that the Constitution shall enter into force. However, for States that had deposited instruments of ratification but did not participate in such notification, the Constitution shall come into force on such later date as they choose.

The practical effect of the entry into force provisions is that the Constitution will not enter into force without the agreement and participation of major donors, including the United States. Once the Senate has given its advice and consent to ratification, this provision will afford the United States a strong position to ensure that the basic concerns of the United States, such as budgetary restraint, are taken into account.

Article 27 states that no reservations may be made to the Constitution.

A major problem in the constitutional negotiations was to balance the desire of major contributing countries for control over the regular budget with the insistence by developing countries that funding for technical assistance activities continue to be available on an assured basis. Under current arrangements, a portion of UNIDO's activities in the field of technical assistance is financed by assessments from the regular budget of the United Nations. Under Annex II of the Constitution, 6% of the regular budget of UNIDO will be set aside for technical assistance activities which have heretofore been financed by assessed contributions to the United Nations budget. The six percent figure sets a constitutional ceiling on the portion of the new organization's regular budget which can be devoted to technical assistance. All other technical assistance activities must be financed by voluntary contributions. Since the United States together with the other major contributing countries will have more than a third of the votes in the Board, which must approve the regular budget by a two-thirds majority vote, we will have substantial influence on the overall figure with regard to which the 6% technical assistance figure will be calculated and, therefore, over the absolute amount of technical assistance expenditures from the regular budget.

The combined effect of the 6 percent ceiling, the major donors having more than a blocking third of the votes, and the withdrawal provisions will provide the United States with much greater capacity than presently exists to ensure that regular budget funds for technical assistance are used for programs which we believe should qualify for such funding. In this connection, the United States representative to the Constitutional Conference placed on the record our view that technical assistance financed by assessments, "must fill gaps which would be difficult for the UNDP, with its country specific focus, or other voluntary funds to fill. Specifically, such technical assistance would deal with emergency situations and financial activities that primarily benefit the entire international community, not a single country."

There has been growing recognition in UNIDO of the need to achieve a true consensus on development questions if UNIDO is to cope effectively with development problems. At the same time, there has been growing recognition within the United States of the need for the United Nations to be more responsive to our basic programmatic and budgetary concerns, especially in light of the large United States assessed contributions. The Constitution of UNIDO is a product of both of these movements. It gives an already existing institution a new mechanism of decision-making which provides special recognition of the essential role of major contributors, including the United States. In this way, it is truly a precedent setting document

for the United Nations system which deserves our earnest and rapid support.

The other agencies most concerned, the Department of Labor, the Agency for International Development, and the Department of Commerce have no objection to ratification of the Constitution. I hope that you will ask the Senate to consider the Constitution and give its advice and consent to ratification as soon as possible.

Respectfully submitted,

WILLIAM CLARK.

Constitution of the United Nations Industrial Development Organization

PREAMBLE

The States Parties to this Constitution,

In conformity with the Charter of the United Nations,

Bearing in mind the broad objectives in the resolutions adopted by the sixth special session of the General Assembly of the United Nations on the establishment of a New International Economic Order, in the UNIDO Second General Conference's Lima Declaration and Plan of Action for Industrial Development and Co-operation, and in the resolution of the seventh special session of the General Assembly of the United Nations on Development and International Economic Co-operation,

Declaring that:

It is necessary to establish a just and equitable economic and social order to be achieved through the elimination of economic inequalities, the establishment of rational and equitable international economic relations, implementation of dynamic social and economic changes and the encouragement of necessary structural changes in the development of the world economy,

Industrialization is a dynamic instrument of growth essential to rapid economic and social development, in particular of developing countries, to the improvement of the living standards and the quality of life of the peoples in all countries, and to the introduction of an equitable economic and social order,

It is the sovereign right of all countries to achieve their industrialization, and any process of such industrialization must conform to the broad objectives of self-sustaining and integrated socio-economic development, and should include the appropriate changes which would ensure the just and effective participation of all peoples in the industrialization of their countries,

As international co-operation for development is the shared goal and common obligation of all countries it is essential to promote industrialization through all possible concerted measures including the development, transfer and adaptation of technology on global, regional and national, as well as on sectoral levels.

All countries, irrespective of their social and economic systems, are determined to promote the common welfare of their peoples by individual and collective actions aimed at expanding international economic co-operation on the basis of sovereign equality, strengthening of the economic independence of the developing countries, securing their equitable share in total world industrial production and contributing to international peace and security and the prosperity of all nations, in conformity with the purposes and principles of the Charter of the United Nations,

Mindful of these guidelines,

Desiring to establish, within the terms of Chapter IX of the Charter of the United Nations, a specialized agency to be known as the United Nations Industrial Development Organization (UNIDO) (hereinafter referred to as the "Organization"), which shall play the central role in and be responsible for reviewing and promoting the co-ordination of all activities of the United Nations system in the field of industrial development, in conformity with the responsibilities of the Economic and Social Council under the Charter of the United Nations and with the applicable relationship agreements,

Hereby agree to the present Constitution.

CHAPTER I.—OBJECTIVES AND FUNCTIONS

Article 1

Objectives

The primary objective of the Organization shall be the promotion and acceleration of industrial development in the developing countries with a view to assisting in the establishment of a new international economic order. The Organization shall also promote industrial development and co-operation on global, regional and national, as well as on sectoral levels.

Article 2

Functions

In fulfillment of its foregoing objectives, the Organization shall generally take all necessary and appropriate action, and in particular shall:

(a) Encourage and extend, as appropriate, assistance to the developing countries in the promotion and acceleration of their industrialization, in particular in the development, expansion and modernization of their industries;

(b) In accordance with the Charter of the United Nations, initiate, coordinate and follow up the activities of the United Nations system with a view to enabling the Organization to play the central co-ordinating role in the field of industrial development;

(c) Create new and develop existing concepts and approaches in respect of industrial development on global, regional and national, as well as on sectoral levels, and carry out studies and surveys with a view to formulating new lines of action directed towards harmonious and balanced industrial development, with due consideration for the methods employed by countries with different socio-economic systems for solving industrialization problems;

(d) Promote and encourage the development and use of planning techniques, and assist in the formulation of development, scientific and technological programmes and plans for industrialization in the public, co-operative and private sectors;

(e) Encourage and assist in the development of an integrated and interdisciplinary approach towards the accelerated industrialization of the developing countries;

(f) Provide a forum and act as an instrument to serve the developing countries and the industrialized countries in their contacts, con-

sultations and, at the request of the countries concerned, negotiations directed towards the industrialization of the developing countries;

(g) Assist the developing countries in the establishment and operation of industries, including agro-related as well as basic industries, to achieve the full utilization of locally available natural and human resources and the production of goods for domestic and export markets, as well as contribute to the self-reliance of these countries;

(h) Serve as a clearing-house for industrial information and accordingly collect and monitor on a selective basis, analyse and generate for the purpose of dissemination information on all aspects of industrial development on global, regional and national, as well as on sectoral levels including the exchange of experience and technological achievements of the industrially developed and the developing countries with different social and economic systems;

(i) Devote particular attention to the adoption of special measures aimed at assisting the least-developed, land-locked, and island developing countries, as well as those developing countries most seriously affected by economic crises and natural calamities, without losing sight of the interest of the other developing countries;

(j) Promote, encourage and assist in the development, selection, adaptation, transfer and use of industrial technology, with due regard for the socioeconomic conditions and the specific requirements of the industry concerned, with special reference to the transfer of technology from the industrialized to the developing countries as well as among the developing countries themselves;

(k) Organize and support industrial training programmes aimed at assisting the developing countries in the training of technical and other appropriate categories of personnel needed at various phases for their accelerated industrial development;

(l) Advise on and assist, in close co-operation with the appropriate bodies of the United Nations, specialized agencies and the International Atomic Energy Agency, the developing countries in the exploitation, conservation and local transformation of their natural resources for the purpose of furthering the industrialization of developing countries;

(m) Provide pilot and demonstration plans for accelerating industrialization in particular sectors;

(n) Develop special measures designed to promote co-operation in the industrial field among developing countries and between the developed and developing countries;

(o) Assist, in co-operation with other appropriate bodies, the regional planning of industrial development of the developing countries within the framework of regional and subregional groupings among those countries;

(p) Encourage and promote the establishment and strengthening of industrial, business and professional associations, and similar organizations which would contribute to the full utilization of the internal resources of the developing countries with a view to developing their national industries;

(q) Assist in the establishment and operation of institutional infrastructure for the provision of regulatory, advisory and developmental services to industry;

(r) Assist, at the request of Governments of the developing countries, in obtaining external financing for specific industrial projects on fair, equitable and mutually acceptable terms.

CHAPTER II.—PARTICIPATION

Article 3

Members

Membership in the Organization is open to all States which associate themselves with the objectives and principles of the Organization:

(a) States members of the United Nations or of a specialized agency or of the International Atomic Energy Agency may become Members of the Organization by becoming parties to this Constitution in accordance with Article 24 and paragraph 2 of Article 25:

(b) States other than those referred to in subparagraph (a) may become Members of the Organization by becoming parties to this Constitution in accordance with paragraph 3 of Article 24 and subparagraph 2(c) of Article 25, after their membership has been approved by the Conference, by a two-thirds majority of the Members present and voting, upon the recommendation of the Board.

Article 4

Observers

1. Observer status in the Organization shall be open, upon request, to those enjoying such status in the General Assembly of the United Nations, unless the Conference decides otherwise.

2. Without prejudice to paragraph 1, the Conference has the authority to invite other observers to participate in the work of the Organization.

3. Observers shall be permitted to participate in the work of the Organization in accordance with the relevant rules of procedure and the provisions of this Constitution.

Article 5

Suspension

1. Any Member of the Organization that is suspended from the exercise of the rights and privileges of membership of the United Nations shall automatically be suspended from the exercise of the rights and privileges of membership of the Organization.

2. Any Member that is in arrears in the payment of its financial contributions to the Organization shall have no vote in the Organization if the amount of its arrears equals or exceeds the amount of the assessed contributions due from it for the preceding two fiscal years. Any organ may, nevertheless, permit such a Member to vote in that organ if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

Article 6

Withdrawal

1. A Member may withdraw from the Organization by depositing an instrument of denunciation of this Constitution with the Depositary.

2. Such withdrawal shall take effect on the last day of the fiscal year following that during which such instrument was deposited.

3. The contributions to be paid by the withdrawing Member for the fiscal year following that during which such instrument was deposited shall be the same as the assessed contributions for the fiscal year during which such deposit was effected. The withdrawing Member shall in addition fulfil any unconditional pledges it made prior to such deposit.

CHAPTER III.—ORGANS

Article 7

Principal and subsidiary organs

1. The principal organs of the Organization shall be:

(a) The General Conference (referred to as the "Conference");

(b) The Industrial Development Board (referred to as the "Board");

(c) The Secretariat.

2. There shall be established a Programme and Budget Committee to assist the Board in the preparation and examination of the programme of work, the regular budget and the operational budget of the Organization and other financial matters pertaining to the Organization.

3. Other subsidiary organs, including technical committees, may be established by the Conference or the Board, which shall give due regard to the principle of equitable geographical representation.

Article 8

General Conference

1. The Conference shall consist of representatives of all Members.

2. (a) The Conference shall hold a regular session every two years, unless it decides otherwise. Special sessions shall be convened by the Director-General at the request of the Board or of a majority of all Members.

(b) Regular sessions shall be held at the seat of the Organization, unless otherwise determined by the Conference. The Board shall determine the place where a special session is to be held.

3. In addition to exercising other functions specified in this Constitution, the Conference shall:

(a) Determine the guiding principles and the policies of the Organization;

(b) Consider reports of the Board, of the Director-General and of the subsidiary organs of the Conference;

(c) Approve the programme of work, the regular budget and the operational budget of the Organization in accordance with Article 14, establish the scale of assessments in accordance with Article 15, approve the financial regulations of the Organization and supervise the effective utilzation of the financial resources of the Organization;

(d) Have the authority to adopt, by a two-thirds majority of the Members present and voting, conventions or agreements with respect to any matter within the competence of the Organization and to make recommendations to the Members concerning such conventions or agreements;

(e) Make recommendations to Members and to international organizations with respect to matters within the competence of the Organizations;

(f) Take any other appropriate action to enable the Organization to further its objectives and carry out its functions.

4. The Conference may delegate to the Board such of its powers and functions as it may consider desirable, except for those provided for in: Article 3, subparagraph (b); Article 4; Article 8, subpargraphs 3(a), (b), (c) and (d); Article 9, paragraph 1; Article 10, paragraph 1; Article 11, paragraph 2; Article 14, paragraphs 4 and 6; Article 15; Article 18; Article 23, subparagraphs 2(b) and 3(b); and Annex I.

5. The Conference shall adopt its own rules of procedure.

6. Each Member shall have one vote in the Conference. Decisions shall be made by a majority of the Members present and voting unless otherwise specified in this Constitution or in the rules of procedure of the Conference.

Article 9

Industrial Development Board

1. The Board shall consist of 53 Members of the Organization elected by the Conference, which shall give due regard to the principle of equitable geographical distribution. In electing the members of the Board the Conference shall observe the following distribution of seats: 33 members of the Board shall be elected from the States listed in Parts A and C, 15 from the States listed in Part B, and 5 from the States listed in Part D of Annex I to this Constitution.

2. Members of the Board shall hold office from the close of the regular session of the Conference at which they were elected until the close of the regular session of the Conference four years thereafter, except that the members elected at the first session shall hold office from the time of such election and one half shall hold office only until the close of the regular session two years thereafter. Members of the Board may be re-elected.

3. (a) The Board shall hold at least one regular session each year at such times as it may determine. Special sessions shall be convened by the Director-General at the request of a majority of all members of the Board.

(b) Sessions shall be held at the seat of the Organization, unless otherwise determined by the Board.

4. In addition to exercising other functions specified in this Constitution or delegated to it by the Conference, the Board shall:

(a) Acting under the authority of the Conference, review the implementation of the approved programme of work and of the corresponding regular budget and operational budget, as well as of other decisions of the Conference;

(b) Recommend to the Conference a scale of assessments for regular budget expenditures;

(c) Report to the Conference at each regular session on the activities of the Board;

(d) Request Members to furnish information on their activities related to the work of the Organization;

(e) In accordance with the decisions of the Conference and having regard to circumstances arising between sessions of the Board or the

Conference, authorize the Director-General to take such measures as the Board deems necessary to meet unforeseen events with due regard to the functions and financial resources of the Organization;

(f) If the office of Director-General becomes vacant between sessions of the Conference, appoint an Acting Director-General to serve until the next regular or special session of the Conference;

(g) Prepare the provisional agenda for the Conference;

(h) Undertake such other functions as may be required to further the objectives of the Organization subject to the limitations stipulated in this Constitution.

5. The Board shall adopt its own rules of procedure.

6. Each member of the Board shall have one vote. Decisions shall be made by a majority of the members present and voting unless otherwise specified in this Constitution or in the rules of procedure of the Board.

7. The Board shall invite any Member not represented on the Board to participate without vote in its deliberations on any matter of particular concern to that Member.

Article 10

Programme and Budget Committee

1. The Programme and Budget Committee shall consist of 27 Members of the Organization elected by the Conference, which shall give due regard to the principle of equitable geographical distribution. In electing the members of the Committee the Conference shall observe the following distribution of seats: 15 members of the Committee shall be elected from the States listed in Parts A and C, 9 from the States listed in Part B, and 3 from the States listed in Part D of Annex I to this Constitution. In designating their representatives to serve on the Committee, States shall take into account their personal qualifications and experience.

2. Members of the Committee shall hold office from the close of the regular session of the Conference at which they were elected until the close of the regular session of the Conference two years thereafter. Members of the Committee may be re-elected.

3. (a) The Committee shall hold at least one session each year. Additional sessions shall be convened by the Director-General at the request of the Board or the Committee.

(b) Sessions shall be held at the seat of the Organization, unless otherwise determined by the Board.

4. The Committee shall:

(a) Perform the functions assigned to it in Article 14;

(b) Prepare the draft scale of assessments for regular budget expenditures, for submission to the Board;

(c) Exercise such other functions with respect to financial matters as may be assigned to it by the Conference or the Board;

(d) Report to the Board at each regular session on all activities of the Committee and submit advice or proposals on financial matters to the Board on its own initiative.

5. The Committee shall adopt its own rules of procedure.

6. Each member of the Committee shall have one vote. Decisions shall be made by a twi-thirds majority of the members present and voting.

Article 11

Secretariat

1. The Secretariat shall comprise a Director-General, as well as such Deputy Directors-General and other staff as the Organization may require.

2. The Director-General shall be appointed by the Conference upon recommendation of the Board for a period of four years. He may be reappointed for a further term of four years, after which he shall not be eligible for reappointment.

3. The Director-General shall be the chief administrative officer of the Organization. Subject to general or specific directives of the Conference or the Board, the Director-General shall have the over-all responsibility and authority to direct the work of the Organization. Under the authority of and subject to the control of the Board, the Director-General shall be responsible for the appointment, organization and functioning of the staff.

4. In the performance of their duties the Director-General and the staff shall not seek or receive instructions from any government or from any authority external to the Organization. They shall refrain from any action that might reflect on their position as international officials responsible only to the Organization. Each Member undertakes to respect the exclusively international character of the responsibilities of the Director-General and the staff and not to seek to influence them in the discharge of their responsibilities.

5. The staff shall be appointed by the Director-General under regulations to be established by the Conference upon recommendation of the Board. Appointments at the level of Deputy Director-General shall be subject to approval by the Board. The conditions of service of staff shall conform as far as possible to those of the United Nations common system. The paramount consideration in the employment of the staff and in determining the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Due regard shall be paid to the importance of recruiting staff on a wide and equitable geographical basis.

6. The Director-General shall act in that capacity at all meetings of the Conference, of the Board and of the Programme and Budget Committee, and shall perform such other functions as are entrusted to him by these organs. He shall prepare an annual report on the activities of the Organization. In addition, he shall submit to the Conference or to the Board, as appropriate, such other reports as may be required.

CHAPTER IV.—PROGRAMME OF WORK AND FINANCIAL MATTERS

Article 12

Expenses of delegations

Each Member and observer shall bear the expenses of its own delegation to the Conference, to the Board or to any other organ in which it may participate.

Article 13

Composition of budgets

1. The activities of the Organization shall be carried out in accordance with its approved programme of work and budgets.

2. The expenditures of the Organization shall be divided into the following categories;

(a) Expenditures to be met from assessed contributions (referred to as the "regular budget") ; and

(b) Expenditures to be met from voluntary contributions to the Organization, and such other income as may be provided for in the financial regulations (referred to as the "operational budget").

3. The regular budget shall provide for expenditures for administration, research, other regular expenses of the Organization and for other activities, as provided for in Annex II.

4. The operational budget shall provide for expenditures for technical assistance and other related activities.

Article 14

Programme and budgets

1. The Director-General shall prepare and submit to the Board through the Programme and Budget Committee, at a time specified in the financial regulations, a draft programme of work for the following fiscal period, together with the corresponding estimates for those activities to be financed from the regular budget. The Director-General shall, at the same time, submit proposals and financial estimates for those activities to be financed from voluntary contributions to the Organization.

2. The Programme and Budget Committee shall consider the proposals of the Director-General and submit to the Board its recommendations on the proposed programme of work and corresponding estimates for the regular budget and the operational budget. Such recommendations of the Committee shall require a two-thirds majority of the Members present and voting.

3. The Board shall examine the proposals of the Director-General together with any recommendations of the Programme and Budget Committee and adopt the programme of work, the regular budget and the operational budget, with such modifications as it deems necessary, for submission to the Conference for consideration and approval. Such adoption shall require a two-thirds majority of the Members present and voting.

4. (a) The Conference shall consider and approve the programme of work and the corresponding regular budget and operational budget submitted to it by the Board, by a two-thirds majority of the Members present and voting.

(b) The Conference may make amendments in the programme of work and the corresponding regular budget and operational budget, in accordance with paragraph 6.

5. When required, supplementary or revised estimates for the regular budget or operational budget shall be prepared and approved in accordance with paragraphs 1 to 4 above and the financial regulations.

6. No resolution, decision or amendment involving expenditure, which has not already been considered in accordance with paragraphs 2 and 3, shall be approved by the Conference unless it is accompanied by an estimate of expenditures prepared by the Director-General. No resolution, decision or amendment in respect of which expenditures are anticipated by the Director-General shall be approved by the Conference until the Programme and Budget Committee and subsequently the Board, meeting concurrently with the Conference, have had an opportunity to act in accordance with paragraphs 2 and 3. The Board shall submit its decisions to the Conference. The approval by the Conference of such resolutions, decisions and amendments shall require a two-thirds majority of all Members.

Article 15

Assessed contributions

1. Regular budget expenditures shall be borne by the Members, as apportioned in accordance with a scale of assessment established by the Conference by a two-thirds majority of the Members present and voting, upon the recommendation of the Board adopted by a two-thirds majority of the members present and voting, on the basis of a draft prepared by the Programme and Budget Committee.

2. The scale of assessments shall be based to the extent possible on the scale most recently employed by the United Nations. No Member shall be assessed more than twenty-five percent of the regular budget of the Organization.

Article 16

Voluntary contributions to the Organization

Subject to the financial regulations of the Organization, the Director-General, on behalf of the Organization, may accept voluntary contributions to the Organization, including gifts, bequests and subventions, made to the Organization by governments, intergovernmental or non-governmental organizations or other non-governmental sources, provided that the conditions attached to such voluntary contributions are consistent with the objectives and policies of the Organization.

Article 17

Industrial Development Fund

In order to increase the resources of the Organization and to enhance its ability to meet promptly and flexibly the needs of the developing countries, the Organization shall have an Industrial Development Fund which will be financed through the voluntary contributions to the Organization provided for in Article 16, and other income as may be provided for in the financial regulations of the Organization. The Director-General shall administer the Industrial Development Fund in accordance with the general policy guidelines governing the operations of the Fund that are established by the Conference, or by the Board acting on behalf of the Conference, and in accordance with the financial regulations of the Organization.

CHAPTER V.—CO-OPERATION AND CO-ORDINATION

Article 18

Relations with the United Nations

The Organization shall be brought into relationship with the United Nations as one of the specialized agencies referred to in Article 57 of the Charter of the United Nations. Any agreement concluded in accordance with Article 63 of the Charter shall require the approval of the Conference, by a two-thirds majority of the Members present and voting, upon the recommendation of the Board.

Article 19

Relations with other organizations

1. The Director-General may, with the approval of the Board and subject to guidelines established by the Conference:

(a) Enter into agreements establishing appropriate relationships with other organizations of the United Nations system and with other intergovernmental and governmental organizations,

(b) Establish appropriate relations with non-governmental and other organizations the work of which is related to that of the Organization. When establishing such relations with national organizations the Director-General shall consult with the governments concerned.

2. Subject to such agreements and relations, the Director-General may establish working arrangements with such organizations.

CHAPTER VI.—LEGAL MATTERS

Article 20

Seat

1. The seat of the Organization shall be Vienna. The Conference may change the seat by a two-thirds majority of all Members.

2. The Organization shall conclude a headquarters agreement with the Host Government.

Article 21

Legal capacity, privileges and immunities

1. The Organization shall enjoy in the territory of each of its Members such legal capacity and such privileges and immunities as are necessary for the exercise of its functions and for the fulfillment of its objectives. Representatives of Members and officials of the Organization shall enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

2. The legal capacity, privileges and immunities referred to in paragraph 1 shall:

(a) In the territory of any Member that has acceded to the Convention on the Privileges and Immunities of the Specialized Agencies in respect of the Organization, be as defined in the standard clauses of that Convention as modified by an annex thereto approved by the Board;

(b) In the territory of any Member that has not acceded to the Convention on the Privileges and Immunities of the Specialized Agencies in respect of the Organization but has acceded to the Convention on the Privileges and Immunities of the United Nations, be as defined in the latter Convention, unless such State notifies the Depositary on depositing its instrument of ratification, acceptance, approval or accession that it will not apply this Convention to the Organization; the Convention on the Privileges and Immunities of the United Nations shall cease to apply to the Organization thirty days after such State has so notified the Depositary;

(c) Be as defined in other agreements entered into by the Organization.

Article 22

Settlement of disputes and requests for advisory opinions

1. (a) Any dispute among two or more Members concerning the interpretation or application of this Constitution, including its annexes, that is not settled by negotiation shall be referred to the Board unless the parties concerned agree on another mode of settlement. If the dispute is of particular concern to a Member not represented on the Board, that Member shall be entitled to be represented in accordance with rules to be adopted by the Board.

(b) If the dispute is not settled pursuant to paragraph 1(a) to the satisfaction of any party to the dispute, that party may refer the matter: either, (i) if the parties so agree:

(A) to the International Court of Justice; or

(B) to an arbitral tribunal;

or, (ii) otherwise, to a conciliation commission.

The rule concerning the procedures and operation of the arbitral tribunal and of the conciliation commission are laid down in Annex III to this Constitution.

2. The Conference and the Board are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the Organization's activities.

Article 23

Amendments

1. At any time after the second regular session of the Conference any Member may propose amendments to this Constitution. Texts of proposed amendments shall be promptly communicated by the Director-General to all Members and shall not be considered by the Conference until ninety days after the dispatch of such communication.

2. Except as specified in paragraph 3, an amendment shall come into force and be binding on all Members when:

(a) It is recommended by the Board to the Conference;

(b) It is approved by the Conference by a two-thirds majority of all Members; and

(c) Two-thirds of the Members have deposited instruments of ratification, acceptance or approval of the amendment with the Depositary.

3. An amendment relating to Article 6, 9, 10, 13, 14 or 23 or to Annex II shall come into force and be binding on all Members when:

(a) It is recommended by the Board to the Conference by a two-thirds majority of all members of the Board;

(b) It is approved by the Conference by a two-thirds majority of all Members; and

(c) Three-fourths of the Members have deposited instruments of ratification, acceptance or approval of the amendment with the Depositary.

Article 24

Signature, ratification, acceptance, approval and accession

1. This Constitution shall be open for signature by all States specified in subparagraph (a) of Article 3, until 7 October 1979 at the Federal Ministry for Foreign Affairs of the Republic of Austria and subsequently at United Nations Headquarters in New York until the date this Constitution enters into force.

2. This Constitution shall be subject to ratification, acceptance or approval by signatory States. Instruments of ratification, acceptance or approval of such States shall be deposited with the Depositary.

3. After the entry into force of this Constitution in accordance with paragraph 1 of Article 25, States specified in subparagraph (a) of Article 3 that have not signed this Constitution, as well as States approved for membership pursuant to subparagraph (b) of that Article, may accede to this Constitution by depositing instruments of accession.

Article 25

Entry into force

1. This Constitution shall enter into force when at least eighty States that had deposited instruments of ratification, acceptance or approval notify the Depositary that they have agreed, after consultations among themselves, that this Constitution shall enter into force.

2. This Constitution shall enter into force:

(a) For States that participated in the notification referred to in paragraph 1, on the date of the entry into force of this Constitution;

(b) For States that had deposited instruments of ratification, acceptance or approval before the entry into force of this Constitution but did not participate in the notification referred to in paragraph 1, on such later date on which they notify the Depositary that this Constitution shall enter into force for them;

(c) For States that deposit instruments of ratification, acceptance, approval or accession subsequent to the entry into force of this Constitution on the date of such deposit.

Article 26

Transitional arrangements

1. The Depositary shall convene the first session of the Conference, to be held within three months following the entry into force of this Constitution.

2. The rules and regulations governing the organization established by United Nations General Assembly resolution 2152 (XXI) shall govern the Organization and its organs until such time as the latter may adopt new provisions.

Article 27

Reservations

No reservations may be made in respect of this Constitution.

Article 28

Depositary

1. The Secretary-General of the United Nations shall be the Depositary of this Constitution.

2. In addition to notifying the States concerned, the Depositary shall notify the Director-General of all matters affecting this Constitution.

Article 29

Authentic texts

This Constitution shall be authentic in Arabic, Chinese, English, French, Russian and Spanish.

ANNEX I

Lists of States

1. If a State that is not listed in any of the lists below becomes a Member, the Conference shall decide, after appropriate consultations, in which of those lists it is to be included.

2. The Conference may at any time, after appropriate consultations, change the classification of a Member as listed below.

3. Changes in the lists below that are made in accordance with paragraph 1 or 2 shall not be considered amendments within the meaning of Article 23.

Lists

[The lists of States to be included by the Depositary in this Annex are the lists determined by the General Assembly of the United Nations for the purpose of paragraph 4 of section II of its resolution 2152 (XXI), as in effect on the date this Constitution enters into force.]

ANNEX II

The regular budget

A. 1. Administration, research and other regular expenses of the Organization shall be deemed to include:

(a) Interregional and regional advisers;

(b) Short-term advisory services provided by the staff of the Organization;

(c) Meetings, including technical meetings, provided for in the programme of work financed from the regular budget of the Organization;

(d) Programme support costs arising from technical assistance projects, to the extent that these costs are not reimbursed to the Organization by the source of financing of such projects.

2. Concrete proposals conforming to the above provisions shall be implemented after consideration by the Programme and Budget Committee, adoption by the Board and approval by the Conference, in accordance with Article 14.

B. In order to improve the effectiveness of the Organization's programme of work in the field of industrial development, the regular budget shall also finance other activities heretofore financed out of Section 15 of the United Nations Regular Budget, in the amount of 6 per cent of the total of the regular budget. These activities shall strengthen the Organization's contribution to the United Nations development system taking into account the importance of utilizing the United Nations Development Programme country programming process, which is subject to the consent of the countries concerned, as a frame of reference for these activities.

ANNEX III

Rules concerning arbitral tribunals and conciliation commissions

Unless otherwise agreed by all the Members parties to a dispute that has not been settled pursuant to paragraph 1(a) of Article 22 and that has been referred to an arbitral tribunal pursuant to subparagraph 1(b)(i)(B) of Article 22 or to a conciliation commission pursuant to subparagraph 1(b)(ii), the following rules shall govern the procedures and operation of such tribunals and commissions:

1. Initiation

Within three months of the conclusion by the Board of its consideration of a dispute referred to it pursuant to paragraph 1(a) of Article 22 or, if it does not conclude its consideration within eighteen months of such referral, then within twenty-one months of such referral, all the parties to the dispute may notify the Director-General that they wish to refer the dispute to an arbitral tribunal or any such party may notify the Director-General that it wishes to refer the dispute to a conciliation commission. If the parties had agreed an another mode of settlement, then such notification may be made within three months of the conclusion of that special procedure.

2. Establishment

(a) The parties to the dispute shall, by their unanimous decision, appoint, as appropriate, three arbitrators or three conciliators, and shall designate one of these as President of the tribunal or commission.

(b) If within three months of the notification referred to in paragraph 1 above one or more members of the tribunal or commission have not been so appointed, the Secretary-General of the United Nations

shall, at the request of any party, within three months of such request designate any members, including the President, then still required to be appointed.

(c) If a vacancy arises on the tribunal or commission, it shall be filled within one month in accordance with paragraph (a) or thereafter in accordance with paragraph (b).

3. Procedures and Operation

(a) The tribunal or commission shall determine its own rules of procedure. All decisions on any question of procedure or substance may be reached by a majority of the members.

(b) The members of the tribunal or commission shall receive remuneration as provided in the financial regulations of the Organization. The Director-General shall provide any necessary secretariat, in consultation with the President of the tribunal or commission. All expenses of the tribunal or commission and its members, but not of the parties to the dispute, shall be borne by the Organization.

4. Awards and Reports

(a) The arbitral tribunal shall conclude its proceedings by an award, which shall be binding on all the parties.

(b) The conciliation commission shall conclude its proceedings by a report addressed to all the parties to the dispute, which shall contain recommendations to which these parties shall give serious consideration.

I hereby certify that the foregoing text is a true copy of the Constitution of the United Nations Industrial Development Organization, adopted at Vienna on 8 April 1979, the original of which is deposited with the Secretary-General of the United Nations.

For the Secretary-General: The Legal Counsel

United Nations, New York, 11 October 1979.

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